

Appl. No. 09/597,196
Appeal Brief in Response
to final Office action of 2 November 2005

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**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Appl. No. : 09/597,196
Applicant(s) : Zimmerman
Filed : 20 Jun 2000
TC/A.U. : 2141
Examiner : Baugh, April L.
Atty. Docket : US000127

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On: 6 March 2006

By: 

Title: TOKEN-BASED PERSONALIZATION OF SMART APPLIANCES

Mail Stop: **APPEAL BRIEF - PATENTS**
Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL UNDER 37 CFR 41.37

Sir:

This is an appeal from the decision of the Examiner dated 2 November 2005,
finally rejecting claims 5, 7, 9-10, and 12-25 of the subject application.

This paper includes (each beginning on a separate sheet):

1. Appeal Brief, with appendices;
2. Extension of Time (1 month);
3. Credit card authorization in the amount of \$620 (\$500 + 120).

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APPEAL BRIEF

I. REAL PARTY IN INTEREST

The above-identified application is assigned, in its entirety, to **Philips Electronics North America**.

II. RELATED APPEALS AND INTERFERENCES

Appellant is not aware of any co-pending appeal or interference that will directly affect, or be directly affected by, or have any bearing on, the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-4, 6, 8, and 11 are canceled.

Claims 5, 7, 9-10, and 12-25 are pending in the application.

Claims 5, 7, 9-10, and 12-25 stand rejected by the Examiner under 35 U.S.C. 103(a).

These rejected claims are the subject of this appeal.

IV. STATUS OF AMENDMENTS

No amendments were filed subsequent to the final rejection in the Office Action dated 2 November 2005.

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V. SUMMARY OF CLAIMED SUBJECT MATTER

The subject invention addresses the control of an appliance, based on user profiles. When a user places a token/communication device in the vicinity of an appliance, the appliance recognizes an identifier of the device and proceeds to download a user profile that is associated with the user, based on a profile address that is provided by a relay server that is associated with the token/communication device (Specification, page 5, line 2 through page 6, line 8).

In a preferred embodiment, the user's profile can be stored at any accessible remote site, such as an Internet web-site, and may contain profile information that may be useful to many different appliances (page 5, lines 10-12). The user's token/communication device, which may be specific to a given appliance, contains an address of a relay server that contains the address of the user's profile (page 5, line 21 – page 6, line 8). That is, the profile address is specific to the user, while the relay address is specific to the token (page 6, lines 6-8); the advantages of providing independent relay and profile addresses are outlined at page 7, line 15-page 8, line 17; page 11, line 11 – page 12, line 9; page 13, lines 1-16; and elsewhere.

When the user obtains a new token, such as may be provided when the user purchases a new appliance, the user provides his/her profile address to the relay server associated with the token (page 6, lines 1-5; and page 11, line 23 – page 12, line 1). When the user subsequently presents the token to the appliance, the appliance receives the relay server's address from the token, obtains the profile server's address from the relay server, then obtains the profile from the profile server (page 27, line 6 – page 28, line 14). Because the profile may contain profile data that is applicable to a variety of different appliances, the receiving appliance filters out irrelevant content to personalize itself accordingly (Page 5, lines 12-15).

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As claimed in independent claim 5, upon which claims 18-20 depend, the invention comprises an appliance (340 in FIG. 3), comprising:

- a controller and a receiver connected thereto and effective to receive a device identifier (ID) from a communications device (100) (page 20, lines 12-16);

- a network interface (274) connectable to a relay server (310) corresponding to the device identifier (ID);

- the controller being programmed to:

- (S10 in FIG. 4) transmit data corresponding to the device identifier to the relay server (310) (page 20, lines 16-21), and

- (S15) receive a profile address (profile URL) in response from the relay server (310) (page 20, lines 21-24);

- the controller being further programmed to (S30) receive profile data from a profile server (305), based on the profile address (profile URL) (page 20, line 24 – page 21, line 3).

As claimed in independent claim 9, upon which claims 7, 10-13, and 21-25 depend, the invention comprises a method of controlling the operation of an appliance, comprising:

- receiving, at the appliance, first access data from memory of a first remote device, the first access data providing network access to first configuration data (page 20, lines 12-16, for a first user; page 23, lines 15-22);

- receiving at the appliance at least a portion of the first configuration data via the network access (page 20, line 24 – page 21, line 3, for the first user);

- configuring the appliance to a first configuration based on the portion of the first configuration data (page 22, line 21 – page 23, line 14);

- receiving, at the appliance, second access data to the appliance from a memory of a second remote device, the second access data providing network access to second configuration data (page 20, lines 12-16, for a second user; page 23, lines 15-22);

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receiving at the appliance at least a portion of the second configuration data via the network access (page 20, line 24 – page 21, line 3, for the second user);
reconfiguring the appliance to a second configuration based on the portion of the second configuration data (page 28, line 18 – page 29, line 12),
wherein:
receiving at least the portion of the first configuration data includes:
receiving first relay data responsive to a network server identified in the first access data (page 20, lines 21-23, for first user), and
receiving first profile data made accessible via the network access by the first relay data (page 20, line 24 – page 21, line 3, for the first user); and
receiving at least the portion of the second configuration data includes:
receiving second relay data responsive to a network server identified in the second access data (page 20, lines 21-23, for second user), and
receiving second profile data made accessible via the network access by the second relay data (page 20, line 24 – page 21, line 3, for the second user).

As claimed in independent claim 14, upon which claims 15-17 depend, the invention comprises a method of controlling an appliance, comprising:
receiving an address of a relay server from a remote device (page 20, lines 12-16),
transmitting a first request to the relay server (page 20, lines 16-21),
receiving an address of a profile server from the relay server, based on the first request (page 20, lines 21-23),
transmitting a second request to the profile server (page 20, line 23 – page 21, line 2),
receiving a profile from the profile server, based on the second request (page 21, lines 2-3), and
controlling the appliance in dependence upon the profile (page 22, line 20 – page 23, line 14).

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 5, 7, 9-10, 12-21, and 24-25 stand rejected under 35 U.S.C. 103(a) over Hunter (USPA 2001/0047426) and White et al. (USP 5,983,273, hereinafter White).

Claims 22-23 stand rejected under 35 U.S.C. 103(a) over Hunter, White, and Hanco et al. (USP 6,912,578, hereinafter Hanco).

VII. ARGUMENT

**Claims 5, 7, 9-10, 12-21, and 24-26 stand rejected under
35 U.S.C. 103(a) over Hunter and White.**

Claims 14-17

Claim 14, upon which claims 15-17 depend, claims a method of controlling an appliance, that includes receiving an address of a relay server from a remote device, transmitting a request to the relay server, receiving an address of a profile server from the relay server, transmitting a request to the profile server, receiving a profile from the profile server, and controlling the appliance in dependence upon the profile.

MPEP 2142 states:

"To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) *must teach or suggest all the claim limitations*... If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."

Both Hunter and White fail to teach receiving an address of a relay server from a remote device, receiving an address of a profile server from the relay server, and transmitting a request to the profile server and receiving a profile from the profile server.

The Office action relies upon Hunter for the above teaching (Office action, page 3, section 4.a.). The applicant respectfully disagrees with this assertion.

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Hunter teaches a technique for accessing Internet content through a wireless device, such as a cell phone. Because it is difficult to enter an Internet address/URL via a cell phone, Hunter teaches creating the address for accessing content information (a "target URL" of a content server) based on a "linkage code", such as the Universal Product Code (UPC) associated with a product. Additionally, because the content server will need to know the capabilities of a user's device in order to determine the appropriate form of the content information to send, Hunter teaches the inclusion of user-specific data in the target URL.

As taught by Hunter, and illustrated in Hunter's FIG. 2, the user's device 200 sends the linkage code to a URL-Assembler 202, optionally via a proxy server (FIG. 2A). The URL-Assembler accesses a registration server 203 to obtain the profile data 214 associated with the user (UID), and accesses a routing server 204 to obtain the location of a resolution server 205 that contains the target URL. In an example embodiment, the resolution server 205 is a server provided by a vendor, and the routing server 204 provides the address of the vendor's server 205 based on the portion of the UPC that identifies the manufacturer of the product (RID). The URL-Assembler creates a "lookup URL" that contains the address of the resolution server and the user-specific data, transmits it to the user's device 200, and redirects the user's device to the resolution server 205. The resolution server 205 finds the appropriate target URL that contains the content information that is in the correct form for the user's device, based on the information contained in the lookup URL; optionally, the resolution server may be provided access to the user's profile data 214 as well. The user's device 200 is then redirected to the target URL at the content server 206, and the content information is sent to the user's device.

It is significant to note that in Hunter, none of the servers provide the address of the server 203 that contains the profile, as specifically claimed, and it is significant to note that in Hunter, a request is not sent to the profile/registration server 203 after receiving a response from a relay server, as specifically claimed.

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The Office action attempts to map a variety of actions in Hunter to the elements of the applicant's claim 15, but this mapping is inconsistent and self-contradictory. The Office action asserts that Hunter's "routing server" corresponds to the applicant's "remote device", Hunter's "resolution server" corresponds to the applicant's "relay server", and Hunter's "content server" corresponds to the applicant's "profile server". Using this mapping, the Office action asserts that Hunter teaches receiving a profile from the profile server.

The Office action notes that Hunter teaches transferring user profile data of user-specific parameters to Hunter's user device ("client") from a server at paragraphs 0024, 0026-28, 0032, and 0039-0040 (the Office action does not specifically identify which of Hunter's servers provide this user profile data). At these referenced paragraphs, Hunter specifically teaches that the user-specific parameters are provided to the client device 200 from the registration server 203. The applicant notes that server 203 is not referenced in the Office action's above-noted correspondences to the applicant's claimed servers, and specifically notes that, in the above-noted correspondences, the Office action specifically asserts that Hunter's content server 206 corresponds to the applicant's claimed profile server that provides the profile data. That is, the Office action attempts to associate two different servers 203, 206 of Hunter to the applicant's claimed profile server, depending upon which server happens to fit the particular claimed element.

A consistent reading of Hunter to the applicant's claimed elements for either server 203 or server 206 as the applicant's claimed profile server leads to inconsistencies and/or contradictions.

If Hunter's registration server 203 is said to correspond to the applicant's claimed profile server, the applicant notes that the third element of the applicant's claim, "receiving an address of a profile server from the relay server" is not satisfied, because Hunter's resolution server 205 ("relay server") provides the address of the content server 206, and not the address of the registration server 203.

If Hunter's content server 206 is said to correspond to the applicant's claimed profile server, the applicant notes that the fourth element of the applicant's claim,

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"receiving a profile from the profile server" is not satisfied, because Hunter's profile data is received from the registration server 203, and not from the content server 206.

Because a consistent reading of Hunter to the applicant's claimed elements leads to inconsistencies and/or contradictions, the applicant respectfully maintains that the rejection of claims 14-18 that relies on Hunter for teaching these claimed elements is unfounded, per MPEP 2142.

Further, assuming in argument that Hunter can be interpreted to support the elements asserted in the Office action, the applicant respectfully maintains that, absent the applicant's disclosure, there is no suggestion to combine the teachings of Hunter and White. Additionally, assuming in argument that a combination of Hunter and White may be suggested, the applicant respectfully maintains that, absent the applicant's disclosure, such a combination would not lead to the applicant's claimed invention.

MPEP 2143 states:

"THE PRIOR ART MUST SUGGEST THE DESIRABILITY OF THE CLAIMED INVENTION ... The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991), ... The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)".

Hunter teaches using profile data to determine which format to use for downloading web-pages from a content server, based on the configuration of a user's device.

White teaches using profile data to configure a multiple-user device for each particular user. In an example embodiment, White's remote device (smart-card) provides an identification of a user that is used to retrieve profile data from a server for use on a WebTV device. Presumably, the WebTV device is preprogrammed with the address of the server, because White is silent with regard to downloading such addresses.

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There is no suggestion in Hunter that the user's device should be reconfigured based on the user's profile data, as taught by White; to the contrary, the user creates the profile data based on the configuration of the user's device.

There is no suggestion in White to select different formats for downloading web-pages based on the user's profile, as taught by Hunter. However, even assuming in argument that White is modified to include Hunter's teaching, the result would be a configuration of a device based on a user's profile, followed by a selection of appropriate formats for downloading web-pages, based on this configuration.

Further, a combination of Hunter and White would not lead to the applicant's claimed invention of receiving profile data from a profile server whose address is provided by a relay server, because both Hunter and White presume that the address of the profile server is known to the devices that seek the profile data.

The Office action asserts that one would be motivated to combine Hunter and White "for the purpose of accessing user or device profile/configuration data from a server in order to securely provide the appropriate requested data to the client appliance according to information and preferences in its profile" (Office action, page 4, lines 3-7). The applicant notes that this purpose is served completely by White's teachings, and is unrelated to the teachings of Hunter. As such, it fails to provide any suggestion to combine Hunter and White, and fails to suggest a combination that would lead to the applicant's claimed invention.

Claims 5 and 18-20

Claim 5, upon which claims 18-20 depend, claims an appliance that includes a receiver that receives a device identifier from a communications device, and a controller that is programmed to transmit data corresponding to the device identifier to a relay server, receive a profile address from the relay server, and receive profile data from a profile server based on the profile address.

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Both Hunter and White fail to teach a controller that is programmed to transmit data corresponding to the device identifier to a relay server, receive a profile address from the relay server, and receive profile data from a profile server based on the profile address.

The Office action relies on the rejection of claim 14 as the basis for rejecting claim 5.

The above referenced inconsistencies and/or contradictions in the asserted correspondences of Hunter to the elements of claim 14 are further compounded in this apparatus claim. Applying the associations asserted in the Office action to Hunter's teachings, Hunter's client device/"appliance" 200 receives the address of the resolution/"relay" server 205 from the routing server/"communications device" 204, as well as the profile data from the registration server 203, via the URL-Assembler 202. That is, Hunter's client/"appliance" 200 receives the profile data as the first transmission from the URL-Assembler 202, at the same time that it receives the address of the resolution/"relay" server 205. Thus, using the Office action's asserted associations, there is no need for the client/"appliance" 200 to perform the further claimed functions of the applicant's controller to obtain the profile data. The applicant respectfully maintains that an asserted reading on a claim that renders the claimed operations of a component superfluous is inconsistent, per se.

The other cited inconsistencies, cited above with regard to claim 14, are equally applicable to the asserted reading on claim 5, in that if Hunter's registration server 203 is said to correspond to the applicant's profile server, Hunter's client does not receive the address of the registration server from the relay/resolution server; and, if Hunter's content server 206 is said to correspond to the applicant's profile server, Hunter's client does not receive the profile data from the content server.

Additionally, as noted above, there is no suggestion in the prior art to combine Hunter and White, and, even if they are combined, the combination of Hunter and White does not lead to the applicant's claimed appliance.

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Claims 7, 9-13, 21, and 24-25

Claim 9, upon which claims 7, 10-13, 21, and 24-25 depend, claims a method of controlling the operation of an appliance that includes receiving access data from a first remote device, receiving first configuration data via network access provided by the access data, and configuring the appliance based on the first configuration data; then repeating the above for a second remote device, and reconfiguring the appliance based on second configuration data. In this claim, receiving the configuration data includes receiving relay data responsive to a network server identified in the access data, and receiving profile data made accessible via the network access by the relay data.

In the rejection of claim 9, the Office action states that claim 9 contains "limitations that are substantially similar to claim 14 and are therefore rejected under the same basis" (Office action page 4, section 4.b.).

The applicant traverses this rejection for the elements that are similar to claim 14, based on the remarks above regarding claim 14. Specifically, both Hunter and White fail to teach receiving configuration data by receiving relay data responsive to a network server identified in the access data, and receiving profile data made accessible via the network access by the relay data; the combination of Hunter and White is not suggested by the prior art; and, the combination of Hunter and White does not lead to the applicant's claimed invention.

The applicant further notes that MPEP 2142 requires a prima facie showing that each element of the claim is taught by the prior art, and not merely that some of the similar elements in another claim are taught.

Claim 9 includes the limitations of "receiving first profile data made accessible via the network access by the first relay data" and "receiving second profile data made accessible via the network access by the second relay data". That is, in claim 9, the address (relay data) of the profile data for each of the two users is provided, and may differ (first relay data and second relay data). In both Hunter and White, a single server (server 203 in Hunter, and server 5 in White) is used to provide the profile data, and there is no need in either Hunter or White for providing the address

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of this server based on the particular user. As such, it cannot be said that either Hunter or White teaches or suggests providing user-specific or device-specific relay data that provides network access to the profile data, as claimed in claim 9.

**Claims 22-23 stand rejected under 35 U.S.C. 103(a)
over Hunter, White, and Hanko**

Claims 22-23

Claims 22-23 are dependent upon claim 9, and stand or fall together with claim 9.

CONCLUSIONS

Because the combination of Hunter and White is not suggested by the prior art, and because a combination of Hunter and White does not lead to the applicant's claimed invention, the applicant respectfully requests that the Examiner's rejection of claims 5, 7, 9-10, 12-21, and 24-25 under 35 U.S.C. 103(a) over Hunter and White, and the rejection of claims 22-23 under 35 U.S.C. 103(a) over Hunter, White and Hanko be reversed by the Board, and the claims be allowed to pass to issue.

Because both Hunter and White fail to teach receiving an address of a relay server from a remote device, receiving an address of a profile server from the relay server, and transmitting a request to the profile server and receiving a profile from the profile server, the applicant respectfully requests that the Examiner's rejection of claims 14-17 under 35 U.S.C. 103(a) over Hunter and White be reversed by the Board, and the claims be allowed to pass to issue.

Because both Hunter and White fail to teach a controller that is programmed to transmit data corresponding to the device identifier to a relay server, receive a profile address from the relay server, and receive profile data from a profile server based on the profile address, the applicant respectfully requests that the Examiner's rejection

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of claims 5 and 18-20 under 35 U.S.C. 103(a) over Hunter and White be reversed by the Board, and the claims be allowed to pass to issue.

Because both Hunter and White fail to teach receiving configuration data by receiving relay data responsive to a network server identified in the access data, and receiving profile data made accessible via the network access by the relay data, the applicant respectfully requests that the Examiner's rejection of claims 7, 9-13, 21, and 24-25 under 35 U.S.C. 103(a) over Hunter and White, and the rejection of claims 22-23 under 35 U.S.C. 103(a) over Hunter, White and Hanko be reversed by the Board, and the claims be allowed to pass to issue.

Respectfully submitted,



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804-493-0707

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CLAIMS APPENDIX

1-4. (Canceled)

5. An appliance, comprising:

a controller and a receiver connected thereto and effective to receive a device identifier from a communications device;

a network interface connectable to a relay server corresponding to the device identifier;

the controller being programmed to:

transmit data corresponding to the device identifier to the relay server,

and

receive a profile address in response from the relay server;

the controller being further programmed to receive profile data from a profile server, based on the profile address.

6. (Canceled)

7. The method of claim 9, wherein

each of the first remote device and the second remote device correspond to a portable device.

8. (Canceled)

9. A method of controlling the operation of an appliance, comprising:

receiving, at the appliance, first access data from memory of a first remote device, the first access data providing network access to first configuration data;

receiving at the appliance at least a portion of the first configuration data via the network access;

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configuring the appliance to a first configuration based on the portion of the first configuration data;

receiving, at the appliance, second access data to the appliance from a memory of a second remote device, the second access data providing network access to second configuration data;

receiving at the appliance at least a portion of the second configuration data via the network access;

reconfiguring the appliance to a second configuration based on the portion of the second configuration data,

wherein:

receiving at least the portion of the first configuration data includes:

receiving first relay data responsive to a network server identified in the first access data, and

receiving first profile data made accessible via the network access by the first relay data; and

receiving at least the portion of the second configuration data includes:

receiving second relay data responsive to a network server identified in the second access data, and

receiving second profile data made accessible via the network access by the second relay data.

10. The method of claim 9, wherein:

each of the first and second remote devices corresponds to a radio frequency identification device.

11. (Canceled)

12. The method of claim 10, wherein

delivering the first and second access data includes co-locating the radio frequency identification device with the appliance.

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13. The method of claim 9, wherein
- receiving at least the portion of the first configuration data includes
 - receiving a portion of profile data including data relating to the appliance and data relating to another type of appliance.
14. A method of controlling an appliance, comprising:
- receiving an address of a relay server from a remote device,
 - transmitting a first request to the relay server,
 - receiving an address of a profile server from the relay server, based on the first request,
 - transmitting a second request to the profile server,
 - receiving a profile from the profile server, based on the second request, and
 - controlling the appliance in dependence upon the profile.
15. The method of claim 14, wherein
- the remote device is a radio-frequency identification device that transmits the address associated with the relay server.
16. The method of claim 14, further including
- receiving an address associated with an other relay server from another remote device,
 - transmitting a third request to the other relay server, based on the address associated with the other relay server,
 - receiving an address of an other profile server from the other relay server,
 - transmitting a fourth request to the other profile server, based on the address of the other profile server,
 - receiving an other profile from the other profile server, based on the fourth request, and
 - controlling the appliance in dependence upon the other profile.

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17. The method of claim 14, wherein
the address includes a Uniform Resource Locator (URL) that is stored at the remote device.
18. The appliance of claim 5, wherein
the communications device is a wireless device that is remote from the appliance.
19. The appliance of claim 18, wherein
the device identifier includes a Uniform Resource Locator (URL) associated with the relay server.
20. The appliance of claim 5, wherein
the controller is configured to determine an address of the relay server based on the device identifier.
21. The method of claim 9, wherein
reconfiguring the appliance includes creating a composite of the first profile data and the second profile data.
22. The method of claim 12, further including
reconfiguring the appliance to the first configuration after removal of the second remote device from a vicinity of the appliance.
23. The method of claim 22, further including
measuring a time duration after the removal of the second remote device, and wherein
reconfiguring the appliance to the first configuration occurs when the time duration exceeds a predefined persistence period.

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24. The method of claim 9, wherein

the first access data includes a Uniform Resource Locator (URL) associated with a relay server.

25. The method of claim 24, wherein

the second access data includes an other Uniform Resource Locator (URL) associated with an other relay server.

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EVIDENCE APPENDIX

No evidence has been submitted that is relied upon by the appellant in this appeal.

RELATED PROCEEDINGS APPENDIX

Appellant is not aware of any co-pending appeal or interference which will directly affect or be directly affected by or have any bearing on the Board's decision in the pending appeal.